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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/810,084 | 03/16/2001 | Mark Nelson | NLN 301 | 7370 |

7590 04/02/2002
Kolisch, Hartwell, Dickinson,
McCormack & Heuser
200 Pacific Building
520 S.W. Yamhill Street
Portland, OR 97204

EXAMINER

JAGAN, MIRELLYS

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2859 | 8 |

DATE MAILED: 04/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/810,084

Applicant(s)

NELSON ET AL.

Examiner

Mirellys Jagan

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-- Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the use of the snap-fit mounting together with the swivel-tip mounting claimed in claim 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 4 and 17 are objected to because of the following informalities:

There is lack of antecedent basis in the specification for the term "snap-capture".

3. Claim 18 is objected to because of the following informalities:

There is lack of antecedent basis in the specification for the use of a snap-fit mounting together with the swivel-tip mounting.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,894,677 to Hoffman in view of U.S. Patent 1,102,436 to Richardson.

Hoffman discloses a detachable workpiece surface-gripping device having a snap-fit mounting structure (slot 758) forming a channel for receiving and generally locking an L-shaped projection (base 752) that is at a measuring tape outer end (reference end 746c). The device comprises a gripper body (extension 756) having a generally planar and circular body expanse. The device is mounted to the tape's outer end such that the gripper body is located in a circumsurrounding fashion relative to the tape's nominal plane. Hoffman discloses that the gripper body must extend traverse to the lengthwise edge of the tape in order to facilitate orienting the tape and reading the tape indicia when measuring. The gripper body may also be of different polygonal shapes (see figures 7, 8, 10 and 11, and column 6, lines 20-34).

Hoffman does not disclose the gripper body having a perimeter structure formed of a row of plural, spaced, perimeter-distributed, workpiece surface-gripping tooth-like projection elements, the elements extending toward the tape and adapted for contacting and gripping the far surface of a workpiece.

Richardson discloses a workpiece surface-gripping device (arm 15) joinable to a measuring tape outer end, the device having a perimeter structure formed of a row of plural spaced workpiece surface-gripping projection elements (teeth 17) located along the gripping device. Hoffman teaches that it is beneficial to place a row of teeth along the workpiece-

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contacting surface of a measuring tape gripper body, the teeth extending toward the tape, in order to firmly grip an article to be measured.

Referring to claims 1, 7, and 12-17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gripper body disclosed by Hoffman by adding a row of projection elements, as taught by Richardson, along the surface of the gripper body that extends past the edges of the tape in order to grip a workpiece surface more securely while taking measurements, and since Hoffman teaches that the surface extending past the edges of the tape is an important location for securely gripping a surface during measurement. Furthermore, the locations of the row of projection elements claimed by applicant, i.e., along the periphery of the gripper body, on the opposite sides of the tape's nominal plane, in two spaced arrays, or entirely on the non-indicia side of the tape, absent any criticality, is also considered to be nothing more than a design choice since the particular location claimed by applicant is nothing more than one of numerous locations extending past the edges of the tape that a person of ordinary skill in the art at the time the invention was made would have been able to provide teeth in order to securely grip a workpiece surface while taking measurements, as already suggested by Hoffman and Richardson.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman and Richardson, as applied to claims 1-17 above, and further in view of U.S. Patent 6,115,931 to Arcand.

Hoffman and Richardson disclose a device having all of the limitations of claim 18, as stated above in paragraph 5, except for the device also having a swivel-tip mounting.

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Arcand discloses an L-shaped projection for attaching to the end of a measuring tape. The mounting is a swivel-tip mounting capable of pivoting about the end of the tape in order to allow a person using the measuring tape to take measurements from any angle or perimeter from the point being measured (see figure 3 and paragraph 4, lines 31-37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device disclosed by Hoffman and Richardson by providing swiveling means to the L-shaped projection, as taught by Arcand, in order to allow the mounting to swivel about the end of the tape, thereby allowing a person using the measuring tape to take measurements from any angle or perimeter from the point being measured.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman and Richardson, as applied to claims 1-17 above, and further in view of U.S. Patent 5,600,894 to Blackman.

Hoffman and Richardson disclose a device having all of the limitations of claim 19, as stated above in paragraph 5, except for the gripping device having a soft-surface attachment that is removably attached to the gripper body.

Blackman discloses a gripping device (hooking device 10) for a tape measure having a soft-surface material (bumper 180) removably attached to the gripper body for protecting the surface being used for measuring a distance (see figure 12 and column 3, lines 63-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device disclosed by Hoffman and Richardson by

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adding a removable soft-surface material, as taught by Blackman, to the gripper body in order to prevent the teeth from scratching a workpiece surface.

Double Patenting

Applicant is advised that should claims 2 and 3 be found allowable, claims 8 and 9 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Response to Arguments

8. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 703-305-0930. The examiner can normally be reached on M-F 8:30-4:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F Gutierrez can be reached on 703-308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7725 for regular communications and 703-308-7725 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

mj
April 1, 2002



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800